IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9049 OF 2005

Universal Society for Quality
Education and Research & Anr. ..Petitioners

versus

The State of maharashtra & Ors. ..Respondents

Shri C. K. Thomas Advocate for the Petitioners.

Shri A. A. Kumbhakoni Associate Advocate General with Mrs. M. P. Thakur for the Respondent Nos. 1 and 3.

Shri P. M. Palshikar Advocate for the Respondent No.2.

CORAM : R.M.S. KHANDEPARKAR &
NARESH H. PATIL, JJ.

DATE : 22ND AUGUST, 2006

P.C. :

1. Rule. By consent, returnable forthwith.

2. The Petitioner No.1 is running an educational institutions like Schools, Colleges, Diploma in Management Studies, Engineering etc., which are recognized as a minority institution by the Respondent No.1. The Petitioners have also now established Petitioner No.2 in respect of which also

they have sought recognition as a minority institution, by an application dated 4.5.2005. That application is still pending before the Respondent No.1. On behalf of the Petitioners, the learned counsel draws our attention to the National Commission for Minority Educational Institution (Amendment) Ordinance, 2006, which came into force at once. The same was published in the Gazette of India, Extraordinary Part II - Section 1 on 23.1.2006. In terms of the said Ordinance the Appropriate Government has been defined as also Competent Authority. In terms of Chapter III the application has to be decided within a period of 90 days failing which there is deemed recognition.

3. It appears that the State of Maharashtra is in the process of complying with the provisions of the said Ordinance and has framed the Policy for that purpose. It is in these circumstances, it is pointed out that it was not possible to entertain the application made by the Petitioners.

4. Considering the above, in our opinion, the petition can be disposed of by issuing the following directions:

(i) As the Respondent No.1 has already recognised other Educational Institutions like Schools, Colleges, Diploma in Management Studies, Engineering etc. established and administered by the Petitioner No.1 as a minority institution, it prima facie presupposes that the petitioner No.1 meets the requirements of a minority institution as defined under Article 30 of the Constitution of India.

(ii) As Petitioner No.2 is being established and administered by the Petitioner No.1, prima facie, we see no reason why for the ensuing academic year, the Petitioner No.2 should not admit students on the basis that it is a minority institution.

(iii) In the meantime, it will be open to the Respondent No. 1 to consider the status of the Petitioner No.2 in terms of the policy now framed and thereafter to dispose of the same according to law.

(iv) If the Respondent No.1 comes to the conclusion that the Petitioner No.2 does not meet the requirement of minority as set out in Article 30 then the Petitioner No.2 would not be entitled to the said status. However, for the present academic year the students admitted would not be affected.

(v) If the Respondent No.1 accept the Petitioner No.2 as a minority institute it will continue to enjoy all facilities for all purposes thereafter.

(vi) Rule made absolute accordingly. There shall be no order as to costs.

. All Authorities to act on an authenticated copy of this Order.

(R.M.S. KHANDEPARKAR, J.)

(NARESH H. PATIL, J.)